

Bonnie Graham, Esq.  
[bgraham@bruman.com](mailto:bgraham@bruman.com)

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# Frequently Asked Questions.... And Answers Too!

# It's time for...



START

Supplement, Not Supplant	Anything Goes	EDGAR, My Man!	Equitable Services
<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>
<u>\$400</u>	<u>\$400</u>	<u>\$400</u>	<u>\$400</u>
<u>\$600</u>	<u>\$600</u>	<u>\$600</u>	<u>\$600</u>
<u>\$800</u>	<u>\$800</u>	<u>\$800</u>	<u>\$800</u>
<u>\$1000</u>	<u>\$1000</u>	<u>\$1000</u>	<u>\$1000</u>

# FINAL JEOPARDY!

Question

The new Title I SNS methodology ensures that these funds are being distributed on a neutral basis to all schools.

ANSWER

# What are state and local funds?

The LEA shall demonstrate that the methodology used to allocate State and local funds to each Title I school ensures that the school receives all the State and local funds it would otherwise receive if it were not receiving Title I funds.

- ESSA Section 1118(b)

An LEA has significant flexibility in adopting a methodology

# ESSA Title I, A SNS (cont.)

## Sec. 1118(b)

### Methodology 2 Part Test!

#### School-level expenditures

- Methodology for allocating funds – if neutral with regard to Title I status, then schools are in fact meeting supplement not supplant.

#### District-level expenditures

- Districtwide initiatives must be expended in a way that ensures all applicable schools receive the same amount of state/local funding on a neutral basis with respect to Title I status.

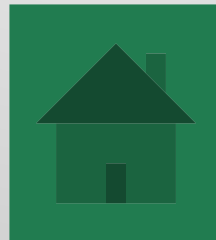




This is the document that auditors use to determine if a cost is supplemental.

ANSWER

# What is the OMB Compliance Supplement?



These funds are excluded from the  
Title I, A SNS test.

ANSWER

What are supplemental non-federal funds that meet the intent and purposes of Title I.



\$3,500

ANSWER

What is the old micro-purchase threshold.

# Procurement Changes Under OMB (NDAA)

## Micro-Purchase 200.320(a) \$10,000 or less.

- May be awarded without soliciting competitive quotations if nonfederal entity considers the cost reasonable.
- To the extent practicable must distribute micro-purchases equitably among qualified suppliers.

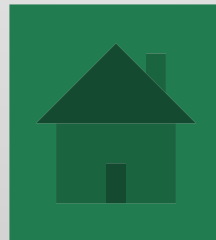
## Small Purchase 200.320(b) \$10,000.01 – \$250,000

- “Relatively simple and informal”
- Must obtain price or rate quotes from 2 or more qualified sources

# Micro Purchases (cont.)

“Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.”

- What about equipment purchases under the micro-purchase threshold?





This procurement method requires no price competition but profit must be negotiated as a separate element of price.

ANSWER

What is noncompetitive procurement (sole source contract)?

# Noncompetitive Proposals

## 200.320(f)

Appropriate only when:

- The item is only available from a single source;
- There is a public emergency that will not permit delay;
- The Federal awarding agency or pass-through expressly authorizes noncompetitive proposals in response to a written request from non-Federal entity; or
- After soliciting a number of sources, competition is determined inadequate.



# Contract Cost and Price 200.323



Must perform a cost or price analysis in connection with every procurement action over \$**250,000**, including contract modifications as well as all noncompetitive proposals

Independent estimate before receiving bids or proposals.

- Cost analysis generally means evaluating the separate cost elements that make up the total price (including profit)
- Price analysis generally means evaluating the total price
- Profit must be negotiated separately for these contracts, and for all noncompetitive awards

# Contract Cost and Price

## 200.323

Q: When must profit be negotiated?

- A: Contracts exceeding \$250k, and all noncompetitive procurements

Q: How should profit be negotiated?

- A: Districts and states should follow their own contracting rules, which at a minimum meet the federal requirements.

Q: Will informal product and price comparisons be accepted as competitive comparison (and not be subject to profit negotiations)?

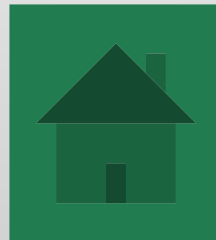
- A: Yes, for micro-purchases and small purchases.



This person is responsible for enforcement, monitoring and technical assistance related to equitable services.

ANSWER

# Who is the ombudsman?

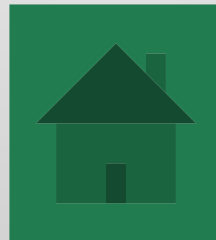


These must exist in order for the LEA to carryover equitable services funds.

ANSWER



# What are extenuating circumstances?



This discusses why LEAs cannot transfer only the public share of a grant program.

ANSWER

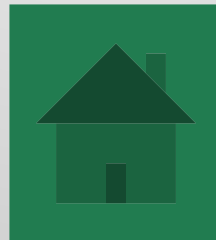
# What is the Department of Education Guidance?

# Draft Non-Regulatory Guidance on Equitable Services Office of Innovation and Improvement

<https://www2.ed.gov/policy/elsec/leg/essa/drafteseatitleiequitableservices.pdf>

- Ombudsman Corner
- Quarterly Ombudsman Update

<https://innovation.ed.gov/what-we-do/non-public-education/essa/ombudsman-corner/>



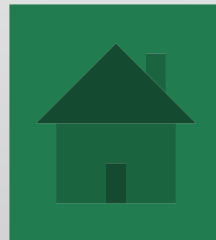
This Title program limits the amount of funds used for technology infrastructure at 15%.

ANSWER

# What is Title IV, Part A Activities to Support the Effective Use of Technology?

# Title IV, A Student Support and Academic Enrichment Grants

- LEA may spend up to 2% on administration
- For LEAs that receive \$30,000 or more must spend:
  - At least 20% on “well-rounded educational opportunities”
  - At least 20% on at least one “safe and healthy students” activity
  - Some portion funds to support effective use of technology
  - *“shall not use more than 15 percent of funds for purchasing technology infrastructure”*
- For LEAs that received less than \$30,000: May pick one of the above areas re: minimum spending.



The indirect cost rate negotiated and included in the agreement, so long as indirect costs are reasonable in light of the overall contracted services or goods.

ANSWER



What is the indirect cost rate *contractors* can use to recover indirect costs?

Even if the contractor has a federally negotiated rate, the grantee is not required to honor and/or recognize the rate. Indirect cost recovery is subject to negotiation similar to any other element of price under the contract.

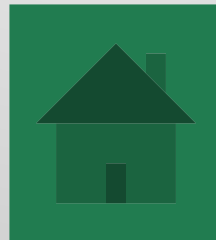
- 2 CFR 200.414(c) and 2 CFR 200.331(a)(4) apply to recipients / subrecipients.
- ED FAQs, p. 17.



Starting in 18-19, this must include actual per-pupil expenditure data disaggregated by source of funds by the LEA and each school.

ANSWER

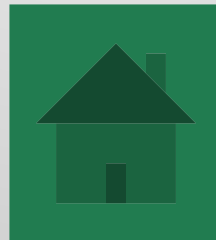
# What is the State and local report card?



In 1980 these two incredible offices were established.

ANSWER

# What is the U.S. Department of Education and Brustein & Manasevit?



# On the Banks of the Wabash, Far Away

ANSWER

# What is the state song of Indiana?





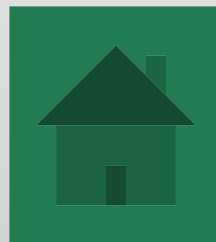
In addition to Title I, Part A funds, these funds may also be subject to the SNS methodology test in Sec. 1118 of ESSA.

ANSWER

# What is the Title I, Part C Migrant Program?

Title I, Part C (Migrant program) does not have its own SNS provision, but rather cross-references the Title I, Part A provision.

- ESSA Sec. 1304(c)(2).
  - However, because Migrant funds must still be used to meet the “unique educational needs of migratory children” (sec. 1305(b)(1)), OME could (and likely would) question using Migrant funds for the same services provided to non-migratory students with different funding sources.



This type of agreement is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship.

ANSWER

# What is a contract?

# Subrecipient v. Contractor

## 2 CFR 200.330

- Determines who is eligible to receive Federal assistance
- Has performance measured against objectives of the Federal program
- Has responsibility for programmatic decision making
- Responsible for adherence to applicable Federal requirements
- Uses the Federal funds to carry out a program or public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the PTE
- Provides the goods and services within normal business operations
- Provides similar goods or services to many purchasers
- Operates in a competitive environment
- Provides goods or services that are "ancillary to the operation of the Federal program;" and
- Is not subject to compliance requirements of the Federal program, though similar requirements may apply for other reasons.

# Federal Grant and Cooperative Agreement Act of 1977 (FGCAA)

Directs Federal Agencies when to use “procurement contracts” and when to use “financial assistance” (*i.e.*, grants) (31 U.S.C. §6301 *et seq.*):

- Use a procurement contract when “the principal purpose of the instrument is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government . . .” §6303.
- Use a grant agreement when “the principal purpose of the relationship is to transfer a thing of value to the . . . Recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring . . . property or services for the direct benefit or use of the United States Government . . .” §6304.



According to ED guidance, this option for distributing the equitable services funds to schools is available within a single district, but not across districts.

ANSWER



# What is pooling?



Generally, administrative caps apply to direct costs and indirect recovery. This program's cap on admin applies only to direct costs.

ANSWER

# What is ESEA, Title III?

ESSA revised Title III to clarify that the administrative cap applied only to “direct” administrative expenses:

- Sec. 3115(b): **DIRECT** ADMINISTRATIVE EXPENSES- Each eligible entity receiving funds under section 3114(a) for a fiscal year may use not more than 2 percent of such funds for the cost of administering this subpart.

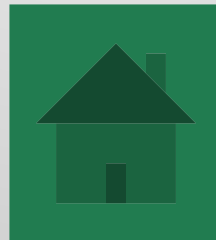
Accordingly, indirect cost recovery would not be subject to the 2 percent cap.



This is the year that Supplement Not Supplant was added to the ESEA (originally passed in 1965) to address missuses of funds identified in a report funded by the National Association for the Advancement of Colored People (NAACP) Legal Defense and Education Fund.

ANSWER

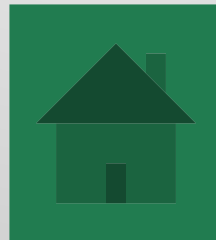
# What is 1970?



Although not defined in the Part 200 regulations, these are required if a non-federal entity's records do not meet the standards for documenting personnel compensation.

ANSWER

# What are personnel activity reports?





The authority cited by ED to stop enforcing the provision in ESEA that prohibits religious organizations from providing equitable services.



Supreme Court decision:  
*Trinity Lutheran Church of Columbia v.  
Comer*, 137 S. Ct. 2012 (2017)



Using a MTDC base:

$$\frac{\text{Indirect Cost Rate}\%}{(1.0 + \text{Indirect Cost Rate } \%)} \times \text{Total Award Less Excluded Costs (e.g., Capital outlay subawards, and stipends))}$$

ANSWER

What is the formula to budget indirect costs?

## Incorrect Calculation

Total Award:  
\$1,000,000

ICR:  
10%

Budgeted

Indirect Costs:  
\$100,000

## Correct Calculation

Total Award:  
\$1,000,000

ICR:  
10%

$$\frac{.1}{1.1} \times (\$1,000,000) =$$

Budgeted  
Indirect Costs:  
\$90,909

## Correct Calculation cont.

Assumes maximum recovery, with no distorting items removed from MTDC.

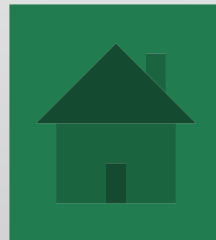
Direct costs:  $\$1,000,000 - 90,909 = \$909,091$

Total direct costs:	\$909,091
+ total indirect:	<u>\$90,909</u>

Total Award:  
\$1,000,000

If \$250,000 in distorting items and exclusions (participant support costs, subawards, stipends, etc.), then the budgeted indirect recovery equals:

$$\frac{.1}{1.1} \times (\$1,000,000 - 250,000) = \$68,182$$



# How Did You Do?

